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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: P. Gardner et al.

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**Title:** Infant Holder

**Attorney**

**Docket No: 02-014-01(IDRF118)**

Group Art Unit: 3636

Examiner: Joseph F. Edell

Confirmation No.: 7986

## **PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicants request review of the final rejection in the above identified application. No amendments are filed with this request. This request is filed with the Notice of Appeal.

## REMARKS SUPPORTING REQUEST FOR REVIEW

Claims 1-11 are pending. Claims 1-11 were rejected under Section 102 as being anticipated by Bowman (5329934) (Claims 1-4) or under Section 103 as being obvious over Bowman in view of Powell (2700381) (Claims 5-11).

Claim 1 recites an infant holder that includes a body having a recess therein configured to support an infant's torso and legs such that the thighs extend out from the torso at an angle in the range of 70°-120° and incline relative to the torso at an angle in the range of 20°-50°. Bowman shows an infant strapped down to a soft flat pad. Bowman does not teach the claimed recess. It is clear from Figs. 3 and 6 in Bowman that torso pad 40 has no recess. Pad 40 is flat.

Even if it is assumed that the depressions formed in torso pad 40 from the weight of an infant lying on pad 40 might somehow be deemed the claimed recess, any such "recess" is not configured to support the infant's legs generally, and specifically not within the range of angles claimed. Indeed, there is no apparent leg support at all in the restraint device disclosed in Bowman. Fig. 2 in Bowman shows

the legs suspended over torso pad 40 and fabric casing 21. "Lower torso support block 50" in Bowman is not configured to nor does it support the infant's legs. Bowman Figs. 1 and 2 show lower torso support block 50 in contact with the infant's buttocks, as one would expect from a lower **torso** support block.

The Examiner has failed to establish a prima facie case of anticipation with regard to Claim 1 and the rejection of Claim 1 and the claims depending from Claim 1 should be withdrawn.

With regard to Claims 5-11, the Examiner asserts that Bowman teaches the claimed configurations except for plural recesses taught by Powell. The Applicants acknowledge that recessed infant holders were known in the art -- the Circumstaint™ mentioned in the Background section of the application is one such holder. So far as is relevant to the claimed invention, however, Bowman stands for the unremarkable proposition that if you lay an infant on its back on a flat surface, the legs will stick out from the torso in the manner shown in Bowman Fig. 2. Indeed, the claimed infant holder takes advantage of this fact by providing features that support the infant in this natural position, specifically including the infant's legs. When the holder supports the infant in this natural position, the infant may be immobilized in this natural position. In Bowman, by contrast, the infant is not supported in this natural position. Hence, to immobilize the infant in the restraint device shown in Bowman, the infant's legs must be strapped down flat against pad 40.

Specifically with regard to Claim 5, Bowman does not teach or suggest all of the limitations of the base claim as noted in the discussion above for Claim 1.

Specifically with regard to Claims 6 and 10, Bowman does not teach or suggest recessed portions or recesses (or any other feature) for supporting an infant's legs extending and inclining at the claimed range of angles. Powell also does disclose leg recesses extending away from the torso recess at an angle in the range of 70°-120° and inclining relative to the torso recess at an angle in the range of 20°-50°. Powell's leg recesses are not inclined at all and they extend away from the torso recess at an angle less than 45°.

Further with regard to Claims 7 and 11, which depend from Claims 6 and 10 respectively, Bowman does not teach or suggest an inclining torso support as claimed. The elevation section view in Bowman Fig. 2 shows that pad 40 and fabric

casing 21 are horizontal. That is to say, the torso support in Bowman is not inclined relative to horizontal. To the extent the Examiner is suggesting that the undulating top surface of pad 40 somehow meets the limitations of Claims 7 and 11, the Applicants note that the structural feature supporting the infant's torso in Bowman is pad 40 on fabric casing 21, which is horizontal. (Any incremental length of the undulating surface of pad 40 that might pass through the claimed range of angle of inclination cannot reasonably be deemed "a first portion (of the infant holder) for supporting an infant's torso.") Powell also does disclose an inclining torso support. Powell's torso support (body receiving cavity 2) is not inclined.

The combination of Bowman and Powell simply don't teach or suggest all of the limitation of Claims 5-11. The Examiner has failed to establish a prima facie case of obviousness as to Claims 5-11 and the rejection of those claims should be withdrawn.

The foregoing is believed to be a complete response to the outstanding Office Action.

Respectfully submitted,



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